

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DENTSPLY INTERNATIONAL, INC., *et al.*, *

Plaintiffs, *

v. * Case No. CIV 12-00104 KG/ACT

LEWIS AND ROCA, LLP, *et al.*, *

Defendants. *

* * * * *

JOINT CONSENT MOTION TO CONTINUE THE STAY OF THE PROCEEDINGS
PENDING MEDIATION

Plaintiffs, Dentsply International, Inc. and Tulsa Dental Products, LLC, along with Defendants Lewis and Roca, LLP and Thomas P. Gulley, Esquire, by their respective undersigned counsel and with the consent of all parties, respectfully move jointly to continue the stay of the proceedings pending mediation.

In support of this Joint Consent Motion, the parties state:

1. This case involves complex allegations of legal malpractice in connection with an underlying lawsuit that resulted in, among other things, a multi-million dollar judgment against Plaintiffs. On May 9, 2012, the Court entered a Scheduling Order assigning this case to a “complex” track classification.

2. The parties have participated in a mediation and also have pursued direct settlement discussions. Progress has been made to the point that the parties believe a second mediation is necessary and appropriate.

3. On October 28, 2013, the parties filed a Joint Consent Motion to Stay Proceedings Pending Mediation [Doc. 169], requesting that all proceedings in this case be stayed.

4. In the Joint Consent Motion, the parties represented that they anticipated completing the mediation by January 31, 2014.

5. This Court granted the Joint Consent Motion in an Order dated October 29, 2013. [Doc. 169].

6. The October 29th Order required that the mediation be conducted by January 31, 2014, that the parties jointly advise the Court and the Magistrate within 5 days of the conclusion of the mediation whether the case had been resolved, and if not resolved, the Order required the parties to promptly request a status and scheduling conference with the Magistrate to establish the balance of the pre-trial schedule. Moreover, the Court ordered that any oppositions to motions that were filed as of the date of the Order but which had not been responded to shall be filed within 15 days from the date the stay is lifted.

7. Notwithstanding the parties' good faith efforts, the parties were unable to schedule the mediation prior to the January 31, 2014 deadline. The difficulty with scheduling the mediation included, but was not limited to, the parties', the attorneys', and the mediator's availability and the necessity that all involved individuals need to travel to attend the mediation.

8. On January 5, 2014, the parties were able to coordinate everyone's availability and the mediation has now been scheduled for February 19, 2014 in Dallas, Texas before the Honorable Leslie Smith.

9. Accordingly, the parties jointly request that the stay remain in place until after the parties have had an opportunity to participate in the February 19, 2014 mediation.

10. The parties request that the general terms of the stay that were set forth in this Court's October 28, 2013 Order [Doc. 169] apply to this stay. Thus, the parties will jointly advise the Court and the Magistrate within 5 days of the conclusion of the mediation whether the case has been resolved, and if not resolved, the parties will promptly request a status and scheduling conference with the Magistrate to establish the balance of the pre-trial schedule. Moreover, the any oppositions to motions or replies in support of motions that were filed as of

the date of the original Order but which had not been responded to shall be filed within 15 days from the date the stay is lifted in this case.

11. The parties do not believe that expending the parties' or this Court's resources on pending matters while the parties attempt to resolve the case is in the parties' best interest or the best use of the Court's resources.

12. Staying the proceedings will permit the parties to focus on settlement discussions and put the case in the best position to be resolved.

13. Good cause exists for this request because staying the proceedings will conserve the parties' and the Court's resources, particularly if the case is resolved at mediation.

WHEREFORE, Plaintiffs and Defendants jointly and by consent respectfully request that the Court continue the stay of the proceedings.

Respectfully submitted,

/s/ Kurt Wihl
W. Spencer Reid
Kurt Wihl
Justin B. Breen
Keleher & Mcleod, P.A.
P.O. Box AA
Albuquerque, New Mexico 87103
Telephone: (505) 346-4646
Facsimile: (505) 346-1370
E-Mail: sr@keleher-law.com
E-Mail: kw@keleher-law.com
E-Mail: jbb@keleher-law.com

*Attorneys for Defendants,
Lewis & Roca, LLP and Thomas P.
Gulley, Esquire*

/s/ Jeffrey J. Hines
Richard M. Barnes
Jeffrey J. Hines
Cheryl Zak Lardieri
Goodell DeVries Leech & Dann, LLP
One South Street, 20th Floor
Baltimore, Maryland 21202
Telephone: (410) 783-4000
Facsimile: (410) 783-4040
E-Mail: rmb@gdldlaw.com
E-Mail: jjh@gdldlaw.com
E-Mail: clardieri@gdldlaw.com

Stevan Douglas Looney
Sutin, Thayer & Browne
P.O. Box 1945
Albuquerque, New Mexico 87103-1945
E-Mail: sdl@sutinfirm.com
*Attorneys for Plaintiffs Dentsply International,
Inc. and Tulsa Dental Products, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of January 2014, I filed the Joint Consent Motion to Continue the Stay of the Proceedings Pending Mediation electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic filing:

W. Spencer Reid
Kurt Wihl
Justin Breen
KELEHER & McLEOD, P.A.
sr@keleher-law.com
kw@keleher-law.com
jbb@keleher-law.com

Attorneys for Defendants

Electronically Filed by:
Stevan Douglas Looney